IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated 06.12.2019

Coram:

THE HONOURABLE DR. JUSTICE G. JAYACHANDRAN

Criminal Revision Case No.1521 of 2011

Muthulakshmi .. Petitioner

/versus/

The State rep.by its,
The Sub Inspector of Police,
Vickkiramangalam Police Station,
Peramblur District.
(Cr.No.93 of 2007) .. Respondent

Criminal Revision Case has been filed under Section 397 r/w 401 of Cr.P.C., against the order passed in C.A.No.5 of 2011, dated 12.09.2011 on the file of the Principal District and Sessions Judge, Perambalur confirming the order passed in C.C.No.16 of 2008 dated 22.03.2011 made in on the file of the Judicial Magistrate, Jeyankondam.

For Petitioner :Mr.V.Illanchezian

For Respondent :Mr.T.Shunmuga Rajeswaran
APP

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O R D E R

Heard the learned counsel appearing for the petitioner and the learned Additional Public Prosecutor appearing for the State.

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2. The revision petitioner herein is the accused in C.C.No.16 of 2008 on the file of the Judicial Magistrate, Jayankondam. She was charged for the offence under Sections 294 (b), 323 and 506(i) of IPC.

3. The contention of the final report is that on 01.12.2007 at about 12 noon, when the defacto complainant was working in the field of Dhakshnamoorthy along with one PaPpathi and Vijaya, The accused assaulted with hands and stones and also placed human excreta into her mouth. She went to Ariyalur Primary Health Hospital for treatment, from there she was referred to Tanjour Medical College and Hospital for further treatment. The victim was admitted as inpatient on 02.12.2007 and discharged on 04.12.2007. The accident register indicates that she sustained simple injury.

4. The prosecution to prove the charges has examined 8 witnesses and marked 7 exhibits. Relying upon the evidence of the victim PW-1 and the eye witnesses PW-2 and PW-3, the trial Court convicted the accused for the offence under Sections 323, 506(i)of IPC and acquitted her for the offence under Section 294(b) of IPC.

5. Aggrieved by the conviction and sentence imposed, the accused has preferred the present appeal before the learned Principal District and Sessions Court, Permbalur harping on the point that when the alleged

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occurrence took place on 01.12.2007, the First Information Report came to be registered based on the complaint dated 18.12.2007, after a delay of 17 days. When PW-2 and PW-3 have not supported the case of the prosecution that the accused attacked the victim by hands and stones coupled with the opinion of the Doctor that there was no external injury to the victim, the prosecution theory that the accused caused hurt to the victim, ought to have been disbelieved.

6. The lower appellate Court, after considering the plea raised in the grounds of appeal and the submissions made by the learned counsels has confirmed the conviction but modified the sentence to the effect that the accused shall undergo 6 months RI for the offence under Section 323 of IPC and 6 months RI for the offence under Section 506(i)of IPC.

7. In the revision petition, the learned counsel appearing for the revision petitioner again reagitate on the same ground of delay and discrepancies in the evidence of PW-1 to PW-3, who are alleged to be the victim and the eye witnesses to the occurrence. The main contention of the learned counsel appearing for the petitioner is that, when the victim alleges that the accused caught hold of her both hands and tried to insert human excreta, which is not possible. So, the entire version of the prosecution should have been rejected. Contending that the enormous delay in setting the

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criminal law in motion has led to several embellishment to the prosecution version. The presence of PW-1, PW-2 and PW-3 in the police station to lodge the complaint, after delay of 17 days, has not been taken serious note by the Courts below.

8. The learned Additional Public Prosecutor would submit that the trial Court, after considering the evidence placed before it, has observed that since the victim was hospitalised, there was no possibility for lodging the complaint immediately and the delay has been properly explained by the prosecution. No doubt, the victim was admitted in the hospital, as per Ex.P6, she was discharged on 04.12.2007 itself. If so, they should have been some reasonable justification for not lodging the complaint immediately thereafter. The parrot-like deposition of PW1 to PW-3 regarding the occurrence in the chief examination and their presence in the police station while lodging the complaint ought to have been considered by the Courts below before holding the revision petitioner guilty of the charges framed.

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9. No doubt, in the revisional jurisdiction, the Court cannot interfere with the findings of the Courts below on facts, unless the findings is perverse and contra to law. This Court finds that the embellishment found in the complaint, narration of the incident by PW-1 coupled with the delay in lodging the complaint renders the prosecution case doubtful.

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10. For the above said reasons, this Criminal Revision Case is allowed. The conviction and sentence imposed by the Courts below are set aside.

06.02.2019

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To

1.The Principal District and Sessions Judge, Perambalur.

2.The Judicial Magistrate, Jeyankondam.

3.The Sub Inspector of Police, Vickkiramangalam Police Station, Peramblur District.

4.The Public Prosecutor, High Court, Madras.

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Dr.G.Jayachandra,J.

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